NOTICE ABOUT INQUIRIES

Inquiries which are made by local or long distance telephone (area code 202) should be made to the following offices of the Court depending upon the nature of the inquiry. The following indicates which office can give particular information directly:

(1) *Deputy Clerk in Charge of Dockets, Records, and Calendars, WOrth 4–3013*, regarding:

(a) Documents filed with the Court;
(b) Action taken on documents;
(c) Status of cases.

(2) *Deputy Clerk in Charge of Appellate Matters, WOrth 4–3019*, regarding:

(a) Filing of petitions for review of Tax Court decisions;
(b) Other procedures relating to appellate review of cases decided by the Tax Court.

(3) *Office of the Clerk of the Court, WOrth 4–3011*, regarding:

(a) General procedure in and practice before the Court;
(b) General information.

RULES OF PRACTICE

TAX COURT

OF THE UNITED STATES

REVISED APRIL 1, 1958

(With Amendments and Additions through September 1, 1965)

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Introduction

These revised rules are promulgated pursuant to authority of section 7453, Internal Revenue Code of 1954, which provides that "The proceedings of the Tax Court and its divisions shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Tax Court may prescribe and in accordance with the rules of evidence applicable in trials without a jury in the United States District Court of the District of Columbia."

Congress in the revenue acts has enacted provisions relating to the organization, jurisdiction, and procedure of the Tax Court of the United States, and to the action of the Internal Revenue Service with respect to the assessment and collection of deficiencies when a petition has been filed with the Court. Reference is made to those statutory provisions in the revenue acts for procedural requirements other than those relating to the conduct of proceedings before the Court and its divisions to which these Rules of Practice are limited. Refer to the Internal Revenue Code of 1954, and particularly to sections 6211 through 6215, 7483, and 7502.

Rules

RULE 1. LOCATION, ADDRESS, TELEPHONE NUMBER, AND BUSINESS HOURS OF THE COURT, FEES, AND DEFINITIONS

(*a*) *Office of the Court.*—The office of the Tax Court of the United States is located on the second floor of the building on the northeast corner of 12th Street and Constitution Avenue NW., Washington, D.C. The office of the Clerk of the Court is in Room 2004.

(*b*) *Mailing address.*—All mail sent to the Court should be addressed to:

Tax Court of the United States
Box 70
Washington, D.C. 20044

Other addresses where the Court may be in session should never be used in addressing mail to the Court or to its Clerk.

(*c*) *Telephone number.*—The telephone number of the Tax Court of the United States at its office in Washington, D.C., is NAtional 8-5771. (See notice inside front cover.)

(*d*) *Business hours.*—The Office of the Clerk of the Court at Washington, D.C., shall be open during business hours on all days, except Saturdays, Sundays, and legal holidays, for the purpose of receiving petitions, pleadings, motions, and the like. "Business hours" are from 8:45 a.m. to 5:15 p.m. (For legal holidays in Washington, D.C., see Rule 61 (*b*).)

(*e*) *Fees—Method of payment.*—Checks, money orders, etc., for fees or charges of the Court should be made payable to the "Treasurer of the United States" and mailed or delivered to the Clerk of the Court. (See Rules 2, 7 (*b*), 52, and 53.)

(*f*) *Definitions.*—

(1) *Time.*—Time, as provided in these Rules and in orders and notices of the Court, means standard time in the city mentioned except when advanced time is substituted therefor by law. (See Rule 61.)

(2) *Commissioner.*—Where in these Rules (except in Rule 48) the word "Commissioner" is used, it refers to the Commissioner of Internal Revenue.

(3) *Code of 1954.*—The designation of "Code of 1954" as used in these Rules refers to the Internal Revenue Code of 1954.

*RULE 2. ADMISSION TO PRACTICE

An applicant who establishes to the satisfaction of the Court that he or she is a citizen of the United States, of good moral character and repute, and possessed of the requisite qualifications to represent others in the preparation and trial of cases, may be admitted to practice before the Court subject to the specific requirements stated hereafter in this Rule.

Each application must be on the form provided by the Court. Application forms and other necessary information will be furnished upon request addressed to the Admissions Clerk of this Court, Box 70, Washington, D.C. 20044.

An attorney at law may be admitted to practice upon filing with the Admissions Clerk a completed application accompanied by the admission fee of $10 and a current certificate from the Clerk of the appropriate court, showing that the applicant has been admitted to practice before and is a member in good standing of the Bar of the Supreme Court of the United States, or of the highest or other appropriate court of any State, or Territory, or of the District of Columbia. A current court certificate is one executed within 60 calendar days preceding the date of the filing of the application.

An applicant, not an attorney at law, as a condition of being admitted to practice, must pass a written examination given by the Court and the Court may require such person, in addition, to take an oral examination. Any person who has thrice failed such examinations shall not thereafter be eligible to take another examination for admission.

An applicant for admission by examination must be sponsored by at least three persons theretofore admitted to practice before this Court, and each sponsor must send a letter of recommendation directly to the Admissions Clerk of the Court where it will be treated as a confidential communication. The sponsor shall send in his letter promptly, stating therein fully and frankly the extent of his acquaintance with the applicant, his opinion of the moral character and repute of the applicant, and his opinion of the qualifications of the applicant to practice before this Court. The Court may in its discretion accept an applicant with less than three such sponsors.

The Court will hold a written examination for applicants at its offices in Washington, D.C., on the last Wednesday in October of each year, and at such other times and places as it may designate. The Court will notify each applicant, whose application is in order, of the time and place at which he is to present himself for examination, and the applicant must present that notice to the examiner as his authority

*Revised effective September 1, 1965. Practitioners admitted prior to that date may obtain a certificate of admission by requesting same from the Admissions Clerk and remitting a fee of $5.

for taking an examination. An applicant seeking to qualify by examination must accompany his application with a fee of $15.

A check or money order, submitted in payment of a required admission fee, shall be made payable to the "Treasurer of the United States."

Upon approval of an application for admission and the taking and subscribing of an oath or affirmation in such form as may be prescribed by the Court, each applicant shall be admitted and shall thereupon be entitled to a certificate of admission.

Corporations and firms will not be admitted or recognized.

Practitioners before this Court shall carry on their practice in accordance with the letter and spirit of the canons of professional ethics as adopted by the American Bar Association.

The Court may deny admission to, suspend, or disbar any person who in its judgment does not possess the requisite qualifications to represent others, or who is lacking in character, integrity, or proper professional conduct. No person shall be suspended for more than 60 days or disbarred until he has been afforded an opportunity to be heard. A Judge of the Court may immediately suspend any person for not more than 60 days for contempt or misconduct during the course of any trial or hearing.

The Court may require any practitioner before it to furnish a statement under oath of the terms and circumstances of his employment in any case. (See Rule 24.)

Each person admitted to practice before the Court shall promptly notify the Admissions Clerk of any change in office address for mailing purposes.

RULE 3. PERSONAL REPRESENTATION IN LIEU OF COUNSEL

Any individual taxpayer may appear for himself upon adequate identification to the Court. A taxpayer corporation may be represented by a bona fide officer of the corporation upon permission granted, in its discretion, by the Court or the Division sitting.

RULE 4. FORM AND STYLE OF PAPERS

(*a*) *General.*—

(1) *Typing process to be used.*—Papers filed with the Court may be prepared by any process provided the information therein is set forth in clear and legible type.

(2) *Binding.*—All papers shall be bound together on the *left-hand side only* and shall have no backs or covers.

(3) *Caption, signature, and number of copies.*—All papers shall have a caption and a signature and copies shall be filed as specified below.

(*b*) *Printed papers* shall be printed in 10- or 12-point type, on good unglazed paper, 5⅞ inches wide by 9 inches long, with inside margin

not less than 1 inch wide, and with double-leaded text and single-leaded quotations.

(*c*) *Typewritten papers* shall be typed on only one side of plain white paper, 8½ inches wide by 11 inches long, and weighing not less than 16 pounds to the ream.

(*d*) *Citations* shall be in italics when printed and shall be underscored when typewritten.

(*e*) *The proper caption omitting all prefixes and titles* shall be placed on all papers filed. The full name and surname of each individual petitioner shall be set forth in the caption, but *without* any prefix or title, such as "Mrs.," "Dr.," etc. The name of the estate, the trust, or the other person for whom he acts, shall be given first by each fiduciary filing a petition, followed then by his own name and pertinent title, thus: "Estate of John Doe, deceased, Richard Roe, Executor." (See Rules 6 and 7 (*c*) (4) (*A*) and appendix I, form a.)

(*f*) *The signature*, either of the petitioner or of his counsel, shall be subscribed in writing to the original of all pleadings, motions, and briefs, and shall be in individual and not in firm name, except that the signature of a petitioner corporation shall be in the name of the corporation by one of its active officers, thus: "John Doe, Inc., by Richard Roe, President." The name and the mailing address of the petitioner or counsel actually signing shall be typed or printed immediately beneath the written signature. The mailing address of counsel shall include the firm name if it is an essential part of the accurate mailing address.

(*g*) *Four conformed copies* shall be filed with the signed original of every paper filed, except as otherwise provided in these Rules. Papers to be filed in more than one case (as a motion to consolidate, or in cases already consolidated) shall include one additional copy for each such additional case.

(*h*) *All copies* shall be clear and legible, but they may be on any weight paper.

RULE 5. FILING OF ALL DOCUMENTS

Any document to be filed with the Court, must be filed in the office of the Clerk of the Court in Washington, D.C., during business hours (see Rule 1); except that the Judge presiding at any trial or hearing in a case may permit documents pertaining thereto to be filed at that particular session of the Court.

RULE 6. PROPER PARTIES

A case in the Tax Court shall be brought by and in the name of the person against whom the Commissioner determined the deficiency (or liability, as the case may be), or by and in the full descriptive name of the fiduciary legally entitled to institute a case on behalf of such person.

In the event of a variance between the name set forth in the notice of deficiency or liability and the correct name, a statement of the reasons for such variance shall be set forth in the petition. (See Rules 4, 7, and 23.)

The Commissioner shall be named as the respondent.

RULE 7. INITIATION OF A CASE—PETITION—FILING FEE—FORM

(*a*) *Petition.*—

(1) *Filing.*—A case shall be initiated by filing with the Court a petition consisting of an original and 4 complete, accurately conformed, clear copies, either printed or typed. (See Rules 4 and 6.)

(2) *Improper petition—Dismissal.*—Failure of a petition to comply with this Rule or with Rule 4 or 6 shall be ground for dismissal of the case.

See also section 6213(a) and section 7502, Code of 1954, in regard to absolute statutory time limit on filing.

(*b*) *Fee for filing petition.*—The fee for filing a petition with the Court shall be $10, payable at the time of filing. (See Rule 1(*e*).)

(*c*) *Form of petition.*—

(1) The petition shall be substantially in accordance with form a, shown in Appendix I.

(2) It shall be complete in itself so as fully to state the issues.

(3) No telegram, cablegram, radiogram, telephone call, or similar communication will be recognized as a petition.

(4) The petition shall contain:

(*A*) A caption in the following form:

TAX COURT OF THE UNITED STATES

Petitioner *v.* COMMISSIONER OF INTERNAL REVENUE, Respondent.	Docket No.

PETITION

(*B*) Numbered paragraphs stating:

1. Petitioner's name and principal office or residence, and the office of the director or district director of internal revenue in which the tax return for the period in controversy was filed.

2. The date of mailing of the notice of deficiency on which the petition is based, or other proper allegations showing jurisdiction in the Court.

3. The amount of the deficiency (or liability, as the case may be), determined by the Commissioner, the nature of the tax, the

year or other period for which the determination was made and, if different from the determination, the approximate amount of taxes in controversy.

4. Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the Commissioner in the determination of the deficiency. Issues in respect of which the burden of proof is by statute placed upon the Commissioner will not be deemed to be raised by the petitioner in the absence of assignments of error in respect thereof. Each assignment of error shall be lettered.

5. Clear and concise lettered statements of the facts upon which the petitioner relies as sustaining the assignments of error, except those assignments of error in respect of which the burden of proof by statute is placed upon the Commissioner.

6. A prayer, setting forth relief sought by the petitioner.

(*C*) The signature of the petitioner or that of his counsel. (See Rule 4 (*f*).)

(*D*) A verification by the petitioner; provided that where the petitioner is sojourning outside the United States or is a nonresident alien, the petition may be verified by a duly appointed attorney in fact, who shall attach to the petition a copy of the power of attorney under which he acts and who shall state in his verification that he acts pursuant to such power, that such power has not been revoked, that petitioner is absent from the United States, and the grounds of his knowledge of the facts alleged in the petition. As used herein the term "United States" includes only the States and the District of Columbia. A notary public is not authorized to administer oaths, etc., in matters in which he is employed as counsel. (See D.C. Code, tit. 1, ch. 5 (1961), and 26 Op. A.G. 236.)

Verifications by fiduciaries shall contain a statement that the fiduciaries signing and verifying have authority to act for the taxpayer.

Where the petitioner is a corporation, the person verifying shall state in his verification that he has authority to act for the corporation.

The signature and the verification to the petition shall be considered the certificate of those performing these acts that there is good ground for the petition, the case has not been instituted merely for delay, and it is not frivolous.

(*E*) A copy of the notice of deficiency (or liability, as the case may be), shall be appended to the petition and to each copy required. If a statement has accompanied the notice of deficiency, so much thereof as is material to the issues set out in the assignments of error likewise shall be appended. If the notice of deficiency refers to prior notices from the Commissioner, which are necessary to elucidate the determination, such parts thereof as are material to the issues set out in the assignments of error shall likewise be appended. (See Appendix I, form a. See Rule 22 re service of the petition.)

RULE 11. DOCKET

Upon receipt of the petition by the Clerk, the case will be entered upon the docket and assigned a number and the parties notified thereof. This docket number shall be placed by the parties on all papers thereafter filed in the case and referred to in all correspondence with the Court. (See Rules 5 and 7(*a*) (1).)

RULE 14. ANSWER

(*a*) *Time to answer or move.*—The Commissioner, after service upon him of the petition, shall have 60 days within which to file an answer or 45 days within which to move with respect to the petition. (See Rule 22(*a*) re service of answer.)

(*b*) *Form of answer.*—The answer shall be drawn so that it will advise the petitioner and the Court fully of the nature of the defense. It shall contain a specific admission or denial of each material allegation of fact contained in the petition and a statement of any facts upon which the Commissioner relies for defense or for affirmative relief or to sustain any issue raised in the petition in respect of which issue the burden of proof is, by statute, placed upon him. Paragraphs of the answer shall be numbered to correspond to those of the petition to which they relate. The original shall be signed by the Commissioner or his counsel.

(*c*) *Copies and conformation.*—The original and 3 copies of the answer shall be filed, and each copy shall be conformed.

(*d*) *Application of Rule to amended answers.*—This Rule shall apply to the filing of answers to amended petitions and to amendments to petitions, except as the Court in a particular case may otherwise direct.

RULE 15. REPLY

(*a*) *Time to reply or move.*—The petitioner, after service upon him of an answer in which material facts are alleged, shall have 45 days within which to file a reply or 30 days within which to move with respect to the answer. (See Rule 22(*a*) re service of reply.)

(*b*) *Contents and form.*—The reply shall contain a specific admission or denial of each material allegation of fact contained in the answer and shall set forth any facts upon which the *petitioner* relies for defense. The paragraphs in the reply shall be numbered to correspond with the paragraphs of the answer. The original copy of each reply shall be signed by the petitioner or his counsel.

(*c*) *Copies and conformation.*—An original and 4 copies of the reply shall be filed, and each copy shall be conformed to the original by the petitioner or his counsel.

(*d*) *Verification.*—The Court, upon motion of the Commissioner in which good cause is shown, or upon its own motion, may require the verification of any reply.

RULE 16. JOINDER OF ISSUE

A case shall be deemed at issue upon the filing of the answer unless a reply is required under Rule 15, in which event it shall be deemed at issue upon filing of the reply, or the entry of an order under Rule 18(*c*).

RULE 17. AMENDED AND SUPPLEMENTAL PLEADINGS

(*a*) *General.*—A motion for leave to amend a pleading shall state reasons for granting it and shall be accompanied by the proposed amendment.

(*b*) *Petition.*—

(1) *Before answer.*—The petitioner may amend his petition at any time before answer is filed.

(2) *After answer.*—A petition may be amended, after answer is filed and up to the commencement of the trial, only with the consent of the Commissioner or by leave of the Court.

(*c*) *Amendment ordered.*—

(1) *Occasion for.*—The Court upon its own motion, or upon motion of either party showing good cause filed prior to the setting of the case for trial, may order a party to file a further and better statement of the nature of his claim, of his defense, or of any matter stated in any pleading. Such a motion filed by a party shall point out the defects complained of and the details desired.

(2) *Consideration of such motion.*—The Court, in its discretion, may set such a motion for hearing (see Rule 27(*a*)) or may act upon it *ex parte*.

(3) *Penalty for failure to amend.*—The Court may strike the pleadings to which the motion was directed or make such other order as it deems just, if an order of the Court to file amended pleadings hereunder is not obeyed within 15 days of the date of the service of said order or within such other time as the Court may fix.

(*d*) *To conform pleadings to proof.*—The Court may at any time during the course of the trial grant a motion of either party to amend its pleadings to conform to the proof in particulars stated at the time by the moving party. The amendment or amended pleadings thus permitted, shall be filed with the Court at the trial or shall be filed in the office of the Clerk of the Court in Washington, D.C., within such time as the Court may fix. (See Rules 4, 5, and 19.)

RULE 18. ADMISSIONS AND DENIALS OF PLEADED FACTS

(*a*) *Effect of answer.*—Every material allegation of fact set out in the petition and not expressly admitted or denied in the answer, shall be deemed to be admitted.

(*b*) *Effect of reply.*—Every material allegation of fact set out in the answer and not expressly admitted or denied in the reply, where

a reply is filed, shall be deemed to be admitted. Any new material contained in the reply shall be deemed to be denied.

(*c*) *Effect of failure to reply and motion thereon.*—

(1) *Denial—Motion seeking admission.*—The affirmative allegations of the answer will be deemed denied in the absence of a reply, unless the Commissioner, within 45 days after the expiration of the time for filing a reply, files a motion reciting that a reply required under these Rules was not filed and requesting the Court to enter an order that specified allegations of fact in the answer shall be deemed to be admitted.

(2) *Service of and hearing on motion.*—The Clerk will serve a copy of the Commissioner's motion upon the petitioner and issue notice of a hearing thereon at which hearing the Court may grant the motion unless the required reply is filed on or before the day fixed for such hearing.

RULE 19. MOTIONS

(*a*) Motions must be timely, must fully set forth the alleged reasons for the action sought, and must be prepared in the form and style prescribed by Rule 4. (See Rule 22(*a*) re service.)

(*b*) Motions will be acted upon as justice may require and may, in the discretion of the Court, be placed upon the motion calendar for argument. Disposition of motions will be expedited if the party filing the same, after consultation with his adversary, is able to note on the motion that there is no objection thereto. (See Rule 27 (*a*) and (*d*) and Rule 30(*b*).)

(*c*) The filing of a motion shall not constitute cause for postponement of a trial from the date set. (See also Rule 27(*d*) with respect to motions for continuance.)

(*d*) If a motion, other than one relating to the receipt of evidence during trial, is made orally during trial, the maker thereof shall promptly reduce it to writing and file it with the Court unless the Division sitting directs otherwise.

(*e*) No motion for retrial, further trial, or reconsideration may be filed more than 30 days after the opinion has been served, except by special leave.

(*f*) No motion to vacate or revise a decision may be filed more than 30 days after the decision has been entered, except by special leave.

Motions covered by (*e*) and (*f*) shall be separate from each other and not joined to or made a part of any other motion.

RULE 20. EXTENSIONS OF TIME

(*a*) An extension of time (except for the absolute time limit on filing of the petition, see section 6213(a), Code of 1954, and except as otherwise provided in these Rules) may be granted by the Court within its discretion upon a timely motion filed in accordance with

these Rules setting forth good and sufficient cause therefor or may be ordered by the Court upon its own motion.

(*b*) If a motion is filed or an order issued in respect to the adequacy of any petition, the time prescribed in Rule 14(*a*) shall begin to run from the date upon which the Court takes final action with respect to the motion or the order unless the Court orders otherwise. The time for reply shall be similarly extended in the case of a motion or an order with respect to the adequacy of an answer unless the Court orders otherwise.

(*c*) Any extension of time for filing a brief shall correspondingly extend the time for filing all other briefs yet to be filed in that case unless the Court orders otherwise. (See Rules 19, 22, and 35.)

(For continuances, see Rule 27(*d*).)

RULE 21. DISMISSAL

A case may be dismissed for cause upon motion of either party or of the Court. (See Rule 7(*a*) (2) and Rule 27(*c*) (3).)

RULE 22. SERVICE UPON THE PARTIES

(*a*) *Who will serve and method to be used.*—The Clerk shall make service upon the petitioner by mailing to him or to his counsel of record a copy of the pleading, motion, notice, brief, or other document to be served.

Service shall be made by the Clerk upon any named respondent in person, upon deputies duly designated by him to accept service, or upon counsel appearing for the respondent in the case. (See Rules 14 and 15.)

(*b*) *Upon first counsel of record.*—Service upon any counsel of record will be deemed service upon the party, but, where there are more than one, service will be made only upon counsel for petitioner whose appearance was first entered of record—unless the first counsel of record, by writing filed with the Court, designates other counsel to receive service, in which event service will be so made.

(*c*) *Where no counsel of record.*—If there is no counsel of record, service will be made upon the petitioner.

RULE 23. SUBSTITUTION OF PARTIES—CHANGE OF NAMES

(*a*) *Successor fiduciaries—Certificate needed.*—A motion shall be filed to substitute parties who are successor fiduciaries and shall be supported by a certificate of the proper court or official showing the appointment and qualification of the party who seeks to be substituted. (See Rules 4, 19, and 24(*a*) (2).)

(*b*) *Change in name—Certificate needed.*—A motion shall be filed to amend the pleadings to show a change in the name of a corporation or other party and shall be supported by a proper official certificate or

copy of the decree or other document by which the change was effected, duly certified by the official having its custody. (See Rules 4 and 19.)

(*c*) *Waiver of certificate.*—No certificate need be filed, unless required by Court order, if the respondent consents to a change as described in paragraphs (*a*) and (*b*) above.

(*d*) *Court order.*—The Court, on motion of a party or upon its own motion, may order the substitution of proper parties upon the death of a petitioner, where a mistake in the name or title of a party appears, or for other cause.

RULE 24. COUNSEL—APPEARANCE—WITHDRAWAL—SUBSTITUTION—CHANGED ADDRESS

(*a*) *Entry of appearance of counsel.*—

(1) Counsel enrolled to practice before this Court may enter his appearance by subscribing the initial petition.

(2) Counsel who subscribes any motion filed under Rule 23 (*a*) will be deemed to have entered his appearance for such new party and he shall promptly file a motion by the new petitioner for the withdrawal of counsel who had previously entered their appearance unless they are to be recognized as counsel for the new petitioner.

(3) Counsel may otherwise enter his appearance *only* by filing, in duplicate, an entry of appearance which shall be signed by counsel individually, shall show his mailing address, and shall state that he is enrolled to practice before this Court. Form 305 may be obtained from the Clerk and used for this purpose but an adequate substitute will suffice. (See Appendix I, form 305.)

(4) Counsel not properly enrolled to practice before this Court will not be recognized except by special leave of the Court granted at a hearing or trial and then only where it appears that counsel can and will promptly become enrolled. (See Rules 2, 4(*f*), and 7(*c*) (4) (*C*).)

(*b*) *Withdrawal of counsel.*—Counsel of record in any case desiring to withdraw, or any petitioner desiring to withdraw counsel of record, must file a motion with the Court requesting leave therefor reciting that notice thereof has been given to the client or to the counsel being withdrawn, as the case may be. The Court may, in its discretion, deny such motion.

(*c*) *Substitution of counsel.*—New counsel may be substituted by conforming to the provisions of (*a*)(2) or (*a*)(3) and (*b*) above. (See Rules 2, 4, 19, and 27 (*d*).)

(See Rule 22(*b*) in regard to substitution of "first counsel of record" for purposes of service.)

(*d*) *Change of address.*—Notice of any change in the mailing address of either counsel or petitioner shall be filed promptly with the

Court, in duplicate. Separate notices shall be filed for each case. Counsel may not act as notary. (See Rule 7(*c*)(4)(*D*).)

RULE 26. PLACE OF TRIAL—REQUESTS AND DESIGNATION

(*a*) *Requests for place of trial.*—The petitioner at the time of filing the petition shall also file a request showing the name of the place where he would prefer the trial to be held. If the petitioner has filed no request the respondent shall file at the time he files his answer, a request showing the name of the place preferred by him.

(*b*) *Form and caption.*—These requests shall be separate from the petition or answer, shall have a caption, and shall consist of an original and 2 copies. (See Rule 7(*c*)(4)(*A*).)

(*c*) *Designation of place of trial.*—The Court will designate the place of trial in accordance with the statutory provision that the time and place of trial shall be fixed "with as little inconvenience and expense to taxpayers as is practicable," and, in all cases, will notify the parties of the place at which or in the vicinity of which the trial will be held.

(*d*) *Motions for changing place designated.*—If either party desires a change in designation of the place of trial he must file a motion (with 4 copies) to that effect, stating fully his reasons therefor. Such motions, made after the notice of the time of the trial has been mailed, will not be deemed to have been timely filed.

(See Appendix II for further information to assist in making requests as to place of trial. See Rule 4.)

RULE 27. PLACE, TIME, AND NOTICE OF HEARINGS AND TRIALS—ATTENDANCE AND CONTINUANCES

(*a*) *Calendars of hearings on motions and other procedural and subsidiary matters.*—

(1) If it is necessary for the Court to hear the parties on matters other than the merits, the proceeding will be listed for such hearing on a motion calendar which is called in Washington, D.C., unless good cause for holding the hearing elsewhere is shown in a timely motion to the Court. Ordinarily such calendars will be set for call at 10 a.m. (see Rule 1) on Wednesdays throughout the year, but due notice of the time and place in each case will be given to the parties by the Clerk. (See Rule 22.)

(2) *Attendance at hearings on motion calendar.*—If a party fails to appear at the call of the motion calendar, the Court will hear the proceeding *ex parte*. However, a memorandum or brief stating the position of the petitioner upon the pending motion will be accepted, when the failure of the petitioner to appear is justified by distance, shortness of time, or other good reason stated in such memorandum or brief.

(3) Where the motion or order is directed to defects in a pleading, prompt filing of a proper pleading correcting the defects may obviate the necessity of a hearing thereon.

*(*b*) *Report calendars.*—On a calendar specifically set for the purpose or on a trial calendar, and after due notice of the time and place given to the parties by the Clerk, any case at issue may be listed and called, first, for report as to whether the case is to be tried or otherwise disposed of, and if the latter, to report on its status, and second, if it is to be tried, for report on the current status of preparations for trial, particular reference being given to the requirements of Rule 31(*b*).

**(*c*) *Trial calendars.*—

(1) Each case, when at issue, will be placed upon a calendar for trial in accordance with Rule 26 and the Clerk, not less than 90 days in advance unless otherwise authorized by the Chief Judge, will notify the parties of the place where and the date and time when it will be called.

(2) *Calendar call.*—Each case appearing on such a calendar will be called at the time and place scheduled. The cases will be called usually in the order listed, and counsel or the parties will state their estimate of the time required for trial or file stipulations in lieu of trial. The cases for trial will thereupon be tried in due course, but not necessarily in the order listed.

(3) *Attendance at trials.*—The unexcused absence of a party or his counsel when a case is called for trial will not be the occasion for delay. The case may be dismissed for failure properly to prosecute or the trial may proceed and the case be regarded as submitted on the part of the absent party or parties.

(4) The Court may require appearance for argument or it may accept briefs in lieu of personal appearance.

(*d*) *Continuances—Motions—Trials.*—

(1) Court action on cases set for hearing on motions or trial will not be delayed by a motion for continuance unless it is timely, sets forth good and sufficient cause, and complies with all applicable Rules.

(2) Conflicting engagements of counsel or the employment of new counsel will never be regarded as good ground for a continuance unless set forth in a motion filed promptly after the notice of hearing or trial has been mailed or unless extenuating circumstances are shown which the Court deems adequate. (See Rule 20.)

(*e*) *Reserve calendar.*—A case once at issue may, upon motion, be placed on an inactive list called the reserve calendar. Good cause must be shown, as, for example, that the case will be governed by the decision in a case pending in a higher court. The case may be placed later on a trial calendar by motion of either party or by the Court on its own motion when the reason for inaction no longer exists.

*New rule, effective November 1, 1962.

**Amended, November 1, 1962.

*RULE 28. PRETRIAL CONFERENCES

(*a*) *General.*—In appropriate cases the Court will undertake to confer with the parties in pretrial conferences with a view to narrowing issues, stipulating facts, simplifying the presentation of evidence, or otherwise assisting the preparation for trial or possible disposition of the case in whole or in part without trial.

(*b*) *Cases calendared for trial.*—Either party in a case listed for trial on any trial calendar may request of the trial judge, or the judge on his own motion may order, a pretrial conference. The trial judge may, in his discretion, set the case for a pretrial conference at such time and place during the calendar or prior thereto as may appear to be practicable and appropriate.

(*c*) *Cases not yet calendared for trial.*—Prior to listing of any case for trial, the Chief Judge in his discretion, upon motion of either party or upon his own motion, may place any case upon the next calendar in the city involved for a pretrial conference, or may assign a particular case to a judge for a pretrial conference either in Washington, D.C., or in any other city where such conference may conveniently be held.

(*d*) *Conditions.*—A request or motion for a pretrial conference shall include a statement of the reasons therefor. Pretrial conferences will in no circumstances be held as a substitute for the conferences required between the parties by Rule 31(*b*)(2), and a pretrial conference for the purpose of assisting the parties in entering into the stipulations called for by Rule 31(*b*)(1) will be held by the Court only where the party requesting such pretrial conference has in good faith attempted without success to obtain such stipulation from his adversary. Nor will any pretrial conference be held where the Court is satisfied that the request therefor is frivolous or is made for purposes of delay.

(*e*) *Order.*—The judge holding a pretrial conference may, in his discretion, issue an appropriate order.

RULE 30. SUBMISSION WITHOUT TRIAL OR APPEARANCE

(*a*) *Submission of cases without trial where facts are uncontested.*—Any case not requiring a trial for the submission of evidence (as, for example, where sufficient facts have been admitted, stipulated, established by deposition, or included in the record in some other way) may be submitted at any time by notice of the parties filed with the Court. The parties need not wait for the case to be calendared and need not appear in person. The Chief Judge will then assign the case to a Division for report, which Division, upon request of the parties, will

*New rule, effective June 1, 1963.

fix a time for filing briefs or for oral argument. (See, however, Rule 31 (*g*).)

(*b*) A contested motion, not predicated upon an issue of fact, may be submitted in the same way. (See Rule 27(*a*).)

RULE 31. EVIDENCE AND THE SUBMISSION OF EVIDENCE

(*a*) *Rules applicable.*—The trials before the Court and its Divisions will be conducted in accordance with the rules of evidence applicable in trials without a jury in the United States District Court for the District of Columbia. With reference to the examination of unwilling or hostile witnesses, see Rule 43(b) of the Rules of Civil Procedure for the United States District Courts.[1]

(*b*) *Stipulations.*—

(1) *Stipulations required.*—The Court expects the parties to stipulate evidence to the fullest extent to which complete or qualified agreement can be reached including all material facts that are not or fairly should not be in dispute.

(2) *In preparation for trial.*—The party expecting to introduce any evidence which might possibly be stipulated (as, for example, entries or summaries from books of account and other records, documents, and all other evidence, to the extent not disputed) shall confer with his adversary promptly after receipt of the trial notice, and both shall endeavor to stipulate all facts not already stipulated.

(3) *Presentation—Copies—Form.*—Stipulations in writing may be filed with the Court in advance or presented at the trial and when filed need not be offered formally to be considered in evidence. They shall be filed in duplicate except that duplicates of the exhibits attached to the original of the stipulation need not be filed. (See Rule 4 as to form and style.)

(4) *Objections.*—Any objection to all or any part of a stipulation should be noted in the stipulation, but the Court will consider any objection to stipulated facts made at the trial.

* (5) *Results of noncompliance by a party.*—If at the date of issuance of trial notice in a case a party has failed to confer with his adversary, or has refused or failed to stipulate the facts and evidence which are not in dispute or fairly should not be in dispute, and after trial notice, still fails or refuses to stipulate, as required under para-

[1] Rules of Civil Procedure for the United States District Courts.

Rule 43. Evidence.

(b) Scope of Examination and Cross-Examination. A party may interrogate any unwilling or hostile witness by leading questions. A party may call an adverse party or an officer, director, or managing agent of a public or private corporation or of a partnership or association which is an adverse party, and interrogate him by leading questions and contradict and impeach him in all respects as if he had been called by the adverse party, and the witness thus called may be contradicted and impeached by or on behalf of the adverse party also, and may be cross-examined by the adverse party only upon the subject matter of his examination in chief.

*Amended, June 1, 1963.

graphs (1) and (2) hereof, the party proposing to stipulate may within 50 days, but not less than 35 days, prior to the date set for call of the case from a trial calendar, file with the Court a motion for an order to show cause why the facts and evidence covered in his motion should not be accepted as established for the purposes of the case. The facts and evidence of the proposed stipulation covered by the motion shall be shown with particularity and by numbered paragraphs. The motion shall contain adequate references to the sources of the matter set forth, and where such sources are in possession or under control of the moving party, the motion shall also show that the opposing party has had and has reasonable access thereto. The motion shall be accompanied by proof of service on the opposing party or his counsel. Upon the filing of such motion, an order to show cause as moved shall be issued forthwith, unless the Court, in its discretion, directs otherwise.

The party against whom the order to show cause has issued shall, within 25 days of the date of such order, file a response listing by numbers the paragraphs in the proposed stipulation in respect of which there is no dispute. Where there is disagreement with respect to any paragraph in part only, the response shall show the part admitted and the part denied. Where there is any disagreement with respect to any paragraph, either in whole or in part, or where the disagreement takes the form merely of a variance in the statement of the facts or evidence, the response shall show the basis for the disagreement including references to pertinent sources. Where the truth and authenticity of facts or evidence is not disputed, an objection on the ground of materiality or relevance may be noted but is not to be regarded as just cause for refusal to stipulate. The response shall be accompanied by proof of service on the opposing party or his counsel.

The matters covered by the show cause order and response shall be heard at the call of the case from the trial calendar, or, if practicable, at such earlier time and at such place as the Chief Judge in his discretion may fix.

(6) *No evidence received to alter or contradict.*—The Court may set aside a stipulation in whole or in part where justice requires, but otherwise will not receive evidence tending to qualify, change, or contradict any fact properly introduced into the record by stipulation.

(*c*) *Depositions must be offered.*—Testimony taken by deposition will not be considered until offered and received in evidence.

(*d*) *Marking exhibits.*—Exhibits attached to a stipulation or a deposition shall be numbered serially, i.e., 1, 2, 3, etc., if offered by the petitioner; shall be lettered serially, i.e., A, B, C, etc., if offered by the respondent; and shall be marked serially, i.e., 1–A, 2–B, 3–C, etc., if offered as a joint exhibit.

(e) *Documentary evidence.*—

(1) *Copies.*—A copy of any book, record, paper, or document may be offered directly in evidence in lieu of the original, where the original is available or where there is no objection, and, where the original is admitted in evidence, a copy may be substituted later for the original or such part thereof as may be material or relevant, upon leave granted in the discretion of the trial Judge.

(2) *Return after final decision.*—Either party desiring the return at his expense of any exhibit belonging to him, after the decision of the Court in any case has become final, shall make prompt application in writing to the Clerk, suggesting a practical manner of delivery. Otherwise exhibits may be disposed of as the Court deems advisable.

(f) *Ex parte statements are not evidence.*—Ex parte affidavits, statements in briefs, and unadmitted allegations in pleadings do not constitute evidence.

(g) *Failure of proof.*—Failure to adduce evidence in support of the material facts alleged by the party having the burden of proof and denied by his adversary, may be ground for dismissal. The provisions of Rule 30 do not relieve the party upon whom rests the burden of proof of the necessity of properly producing evidence in support of issues joined on questions of fact.

RULE 32. BURDEN OF PROOF

The burden of proof shall be upon the petitioner, except as otherwise provided by statute, and except that in respect of any new matter pleaded in his answer, it shall be upon the respondent.

RULE 35. BRIEFS

(a) *General.*—The filing of briefs and the making of oral arguments shall be in accordance with the directions of the Judge presiding at the trial. The parties should be prepared to make oral argument at the conclusion of a trial or to file a written citation of authorities at that time if the Judge so directs.

(b) *Filing.*—Each party shall file an original brief within 45 days after the day on which the trial was concluded and a reply brief within another 30 days thereafter unless the trial Judge directs otherwise. A party, who fails to file an original brief, may not file a reply brief except on leave granted by the Court, and if his reply brief is filed, his adversary may have an additional 30 days thereafter to file his reply brief. (See Rules 19 and 20 re extensions of time.)

(c) *Service.*—Each brief, whether original or reply, will be served promptly upon the opposite party after it is filed, except where it bears a notation that a copy has already been served, and except that where simultaneous briefs are to be filed they will be served upon the other party immediately after the time for filing such briefs (includ-

ing any extension thereof) has expired. If an extension is granted after the original time for filing has expired and the brief of the opposite party has been filed but not served, it will be served promptly after the extended period. (See Rule 20(*c*).)

(*d*) *Number of copies.*—An original and 2 copies shall be filed if briefs are typewritten and 20 copies shall be filed if briefs are printed. An original and 6 copies shall be filed on Internal Revenue Code of 1939 section 722 and section 721 (a) and (2) (C) issues.

(*e*) *Form and contents.*—All briefs shall contain the following in the order indicated:

(1) On its first page, a *table of contents* with page references followed by a list of all citations alphabetically arranged as to cases cited together with references to pages. Citations shall be in italics when printed and underscored when typewritten. (See Rule 4.)

(2) A statement of the nature of the controversy, the tax involved, and the issues to be decided.

(3) The party having the burden of proof shall set forth complete *statements of the facts* based upon the evidence. Each statement shall be numbered, shall be complete in itself, and shall consist of a concise statement of the essential fact and not a discussion or argument relating to the evidence or the law. Reference to the pages of the transcript or the exhibits relied upon in support thereof shall be inserted after each separate statement.

If the other party disagrees with any or all of the statements of fact, he shall set forth each correction which he believes the evidence requires and shall give the same numbers to his statements of fact as appear in his opponent's brief. His statement of fact shall be set forth in accordance with the requirements above designated.

(4) A concise *statement of the points* upon which the party relies.

(5) *The argument.*—The argument shall set forth the points of law relied upon and any discussion of the evidence deemed necessary to support the statement of fact.

(6) The *signature* of counsel or the party filing. (See Rule 4(*f*).)

RULE 40. TRANSCRIPTS OF PROCEEDINGS

Hearings or trials before the Court or its Divisions shall be stenographically reported and a transcript thereof shall be made if, in the opinion of the Court or of the Division conducting the hearing or trial, a permanent record is deemed necessary. Transcripts shall be supplied to the parties and to the public by the official reporter at such rates as may be fixed by contract between the Court and the reporter.

RULE 44. SUBPOENAS

(*a*) *How issued.*—Subpoenas shall be issued to a proper party,

upon request, and when issued shall be signed and sealed, but may otherwise be in blank. Subpoenas so issued in blank shall be completed before service by the party receiving them.

(*b*) *Contents.*—A subpoena when completed shall state the caption of the case, the names and last known addresses of the witnesses to be called, the time and place at which they are to appear and give testimony, and whether a witness may designate someone to appear in his place.

(*c*) *For production of documentary evidence.*—If evidence other than oral testimony is required, such as documentary or written data, the subpoena shall number, set forth separately, and describe adequately each item to be produced.

(*d*) *Service.*—The party on whose behalf a subpoena is issued shall be responsible for its service, and service may be made by any person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person.

RULE 45. DEPOSITIONS

(*a*) *Application to take.*—When either party desires to take a deposition, he shall file with the Court a verified application and 2 conformed copies, together with an additional copy for each additional docket number involved. The Court upon request will furnish forms for this purpose. If the space in the form furnished by the Court is inadequate for setting forth the reasons in support of the application in any particular case, a substitute form may be used, but the substitute must contain all of the information called for on the Court's form. (See Appendix I, form 5–A.)

(*b*) *Limitation on time for application to take.*—Applications to take depositions must be filed at least 30 days prior to the date set for the trial of the case, and such depositions must be completed and filed with the Court at least 10 days prior to the trial: *Provided*, Such applications will not be regarded as sufficient ground for the granting of a continuance from the date or place of the trial theretofore set, unless the case shall have been at issue less than 60 days and the motion for continuance shall have been filed not less than 20 days prior to said date of trial: *Provided, further*, That under special circumstances, and for good cause shown, the Court may otherwise order.

(*c*) *Qualification of officer.*—The officer before whom depositions are taken must be authorized to administer oaths. (See section 7622, Code of 1954.) In no case shall a deposition be taken before any person who has any office connection or business employment with either party or his counsel except by consent of the parties and when no other officer is available, and in his certificate of return to such deposition such officer shall so certify.

(*d*) *Order for taking.*—Upon receipt of such application, the Clerk will serve a copy thereof on the opposite party, and allow a reasonable time for objection thereto. Thereafter, the Court will, in its discretion, make an order, a copy of which will be mailed or delivered to the parties or their counsel, wherein the Court will name the witness whose deposition is to be taken and specify the time when, the place where, and the officer before whom the witness is to testify, but such time, place, and officer specified in the Court's order may or may not be the same as set forth in the application. The applicant shall thereupon make all necessary arrangements for the taking of each deposition and shall furnish the officer before whom it is to be taken with a copy of the order above mentioned.

(*e*) *By stipulation.*—At any time after issue is joined, the parties or their counsel may, by stipulation duly signed and filed, take depositions. In such cases, the stipulation shall state the name and address of each witness, the time when and the place where such depositions will be taken, and the name, address, and official title of the officer before whom it is proposed to take the depositions. In such cases, no order to take depositions will be issued, but they shall be taken and returned by the officer in accordance with the Rules of the Court.

(*f*) *Manner of taking.*—Each witness must first take the oath or affirm. The questions propounded to him and his answers must be recorded verbatim.

Objections to questions or answers shall be explicitly but briefly and concisely stated and recorded without any unnecessary comment, explanation, or argument by counsel for either party.

(*g*) *Other witnesses to be excluded.*—At the request of either party, a person whom either expects or intends to call as a witness in the same or any related case shall be excluded from the room where the testimony of a witness is being taken. If such person remains in the room or within hearing of the examination after such request has been made, he shall not thereafter be permitted to testify except by the consent of the party who requested his exclusion.

(*h*) *Depositions to be signed.*—The testimony of the witness when transcribed shall be read to or by him and shall be signed by him. (See Appendix I, form 5–re.)

(*i*) *Form in which depositions must be returned to the Court.*—When a deposition is returned to the Court it must show the docket number and the caption (the names of the parties) of the case as they appear in the Court's records, the place and date of taking, the name of the witness, the party by whom called, the names of counsel present, indicating which party each counsel represents, and (in the body of the deposition) the name of counsel examining or cross-examining the witness.

The officer must so fasten the sheets of the deposition that they can-

not be tampered with. He must spare no pains to return to the Court the exact testimony he has taken. All exhibits must be carefully marked so as to be capable of identification, and when practicable must be attached to the deposition.

The officer must properly execute and attach to the deposition a certificate of return in the form prescribed. (See Appendix I, form 5-re.)

(*j*) *Return of.*—The officer must enclose the original depositions and exhibits, together with 2 copies of the depositions, in a sealed packet, with postage or other transportation charges prepaid, and direct and forward the same to the Tax Court of the United States, Box 70, Washington, D.C. 20044. In each case, the original of the depositions must be directed and forwarded to the Court. The officer may, however, upon written request, deliver a copy of the depositions to either or to both of the parties, or to their representatives, in lieu of sending such copies to the Court as above provided. If one or both of the required copies are delivered by the officer taking the depositions, he shall attach to his return the written request of the party or parties, or of their counsel to whom such copy or copies were delivered, and shall state in his certificate of return the fact of delivery by him of such copy or copies. If copies of the depositions are delivered by the officer taking the same, no service of copies of such depositions upon the party or his counsel of record will be made by the Court.

RULE 46. DEPOSITIONS UPON WRITTEN INTERROGATORIES

(*a*) *Application for, interrogatories, objections, etc.*—Applications to take depositions upon written interrogatories may be made in substantially the same manner as depositions taken under Rule 45 except as hereinafter noted. An original and 5 copies of the interrogatories must be filed with the verified application. The Clerk will serve a copy of the application and of the interrogatories with notice to the opposite party that objections or cross-interrogatories may be filed within 15 days thereafter. Cross-interrogatories shall consist of an original and 5 copies. The Clerk will serve a copy thereof with notice that any objections thereto may be filed within 15 days. The initial application and interrogatories must be filed in time to allow for service, objections, cross-interrogatories, and objections thereto, and for taking and filing the deposition at least 10 days prior to any trial then scheduled.

(*b*) *Manner of taking.*—The officer taking the deposition upon written interrogatories shall propound the interrogatories and cross-interrogatories in their proper order to each witness and shall cause the testimony to be reduced to writing in the witness's own words by a stenographic reporter then present, but no person other than the wit-

ness, reporter, and the officer taking the deposition shall be present at the examination. Otherwise said officer shall conform substantially to the provisions of Rule 45

(*c*) *Certificate and return of deposition.*—The officer taking the deposition shall certify in his return that no person was present at the examination except the witness, the reporter, and himself and he shall otherwise comply with the pertment provisions of Rule 45.

(*d*) *Depositions in foreign countries.*—Depositions obtained in foreign countries must be taken upon written interrogatories except as otherwise directed by the Court for cause shown.

RULE 47. TENDER OF AND OBJECTIONS TO DEPOSITIONS

(*a*) *Objections to depositions taken upon oral examination.*—

(1) *Competency, relevancy, or materiality.*—Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony, where depositions are taken upon oral examination, may be made at the trial, even though not noted at or before the taking of the deposition, unless the ground for the objection is one which might have been obviated or removed if presented at or before the time of the taking of the deposition.

(2) *Irregularities as to manner or form.*—Objections directed to errors and irregularities in the manner of taking the deposition, in the form of any question or answer, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might have been obviated, removed, or cured if promptly presented will not be considered unless made at the taking of the deposition. (See Rule 45(*f*).)

(3) *Errors re how transcribed, signed, certified, etc.*—Errors or irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with by the officer under Rules 45 and 46 shall not form the basis for objections but questions in respect thereto shall be raised on a motion to suppress the deposition in whole or in part made with reasonable promptness after such defect is or with due diligence might have been ascertained.

(*b*) *Objections to written interrogatories or cross-interrogatories.*—No objections to written interrogatories or cross-interrogatories will be considered subsequent to the taking of the deposition unless they have been made in the manner and within the time prescribed therefor by Rule 46. (See Rule 31 (*c*) and (*e*).)

RULE 48. COMMISSIONER OF THE TAX COURT

(*a*) The term "commissioner" as used in this Rule 48 applies to any attorney of the legal staff of this Court who shall have been designated by the Chief Judge as a "commissioner in a particular case" pursuant to section 7456, Code of 1954.

(*b*) The commissioner shall conduct the hearing in such case in accordance with the Court's Rules of Practice He shall rule upon objections and other evidentiary matters in accordance with the rules of evidence as provided in section 7453, and shall exercise such further and incidental authority, including the issuance of subpoenas, as may be necessary for the conduct of the hearing.

(*c*) Each party shall file his proposed findings of fact and original brief within 60 days after the date on which the hearing is concluded, unless otherwise directed. As to their form and contents, the provisions of Rule 35(*e*) shall apply, except that the proposed findings of fact of each party shall be complete under the evidence and shall not be subject to the limiting provision of the first sentence of Rule 35(*e*)(3). The number of copies of proposed findings of fact and briefs to be filed and service thereof shall be as specified in Rules 35(*d*) and 35(*c*), respectively.

(*d*) The objections of each party to the proposed findings of fact of the opposing party, prepared in the manner provided in the second paragraph of Rule 35(*e*)(3), shall be filed within 30 days after service of the proposed findings.

(*e*) Thereafter the commissioner shall prepare and file a report of his findings of fact based upon the evidence in the case, and a copy thereof shall be served on each party.

(*f*) Reply briefs and any exceptions which the parties may have to the commissioner's findings of fact shall be filed within 30 days from the date of service of the said findings of fact.

(*g*) Upon motion of either party, made not later than the due date for filing his reply brief, or upon its own motion, the Division to which the case is assigned may, in its discretion, direct oral argument and set a date therefor.

RULE 50. COMPUTATIONS BY PARTIES FOR ENTRY OF DECISION

(*a*) *Agreed computations.*—Where the Court has filed its opinion determining the issues in a case, it may withhold entry of its decision for the purpose of permitting the parties to submit computations pursuant to the Court's determination of the issues, showing the correct amount of the deficiency or overpayment to be entered as the decision. If the parties are in agreement as to the amount of the deficiency or overpayment to be entered as the decision pursuant to the report of the Court, they or either of them shall file promptly with the Court an original and 2 copies of a computation showing the amount of the deficiency or overpayment and that there is no disagreement that the figures shown are in accordance with the report of the Court. The Court will then enter its decision.

(*b*) *Procedure in absence of agreement.*—If, however, the parties are not in agreement as to the amount of the deficiency or overpay-

ment to be entered as the decision, in accordance with the report of the Court, either of them may file with the Court a computation of the deficiency or overpayment believed by him to be in accordance with the report of the Court. The Clerk will serve a copy thereof upon the opposite party, will place the matter upon a motion calendar for argument in due course, and will serve notice of the argument upon both parties. If the opposite party fails to file objection, accompanied by an alternative computation, at least 5 days prior to the date of such argument, or any continuance thereof, the Court may enter decision in accordance with the computation already submitted. If in accordance with this Rule computations are submitted by the parties which differ as to the amount to be entered as the decision of the Court, the parties will be afforded an opportunity to be heard in argument thereon on the date fixed, and the Court will determine the correct deficiency or overpayment and enter its decision.

(*c*) *Limits on argument under this Rule.*—Any argument under this Rule will be confined strictly to the consideration of the correct computation of the deficiency or overpayment resulting from the report already made, and no argument will be heard upon or consideration given to the issues or matters already disposed of by such report or of any new issues. This Rule is not to be regarded as affording an opportunity for retrial or reconsideration.

RULE 51. ESTATE TAX DEDUCTION DEVELOPING AFTER TRIAL

If the parties in an estate tax case are unable to agree under Rule 50, or under a remand, upon a deduction involving expenses incurred at or after the trial, the petitioner may move to reopen the case for further trial on that issue provided it is raised in the petition or by amendment thereto.

RULE 52. PREPARATION OF RECORD ON REVIEW—COSTS

(*a*) Immediately after the contents of a record on review have been settled or agreed to, the Clerk will notify the petitioner of the costs and charges for the preparation, comparison, and certification of said records; such charges to be determined in accordance with the provisions of section 7474, Code of 1954, and the Act of September 27, 1944, 58 Stat. 743.

(*b*) No transcript will be certified and transmitted to the appellate court until the costs and charges therefor have been paid. (For name of payee, see Rule 1(*e*).)

(*c*) A petitioner for review who requests the Clerk to certify but not to prepare documents for transmission to a United States Court of Appeals shall furnish the Clerk with the copies of the documents to

be certified, if duplicates are not already in the record. (See Rules 4(*g*) and 31(*b*).)

(For statutory provisions relating to appellate court review of Tax Court decisions, see section 7482 et seq., Code of 1954. For forms of bonds, see Appendix I, forms b and c. The rules of the appellate court to which the appeal is being taken should be consulted.)

RULE 53. COURT RECORDS—REMOVAL—FEES FOR COPIES

(*a*) *Original records to be retained by Clerk—Exceptions.*—The Clerk shall not permit any original record, paper, document, or exhibit filed with the Court to be taken from the courtroom or from other offices of the Court, except as ordered by a Judge of the Court, or except as the Clerk may find necessary in furnishing photostat copies of such records or transmitting originals to higher courts for appeal purposes, but when a decision of the Court becomes final he shall proceed in accordance with Rule 31(*e*)(2).

(*b*) *Copies obtained from Clerk.*—A plain or a certified copy of any document, record, entry, or other paper pertaining to a case before this Court may be had upon application to the Clerk, the fee to be charged and collected therefor to be determined in accordance with the provisions of section 7474, Code of 1954, and the Act of September 27, 1944, 58 Stat. 743. No copy of any exhibit or original document in the files of the Court shall be furnished to other than the parties until the decision in the case becomes final.

RULE 60. FEES AND MILEAGE

Section 7457 of the Internal Revenue Code of 1954 provides:

(a) AMOUNT.—Any witness summoned or whose deposition is taken under section 7456 shall receive the same fees and mileage as witnesses in courts of the United States.

(b) PAYMENT.—Such fees and mileage and the expenses of taking any such deposition shall be paid as follows:

(1) WITNESSES FOR SECRETARY OR HIS DELEGATE.—In the case of witnesses for the Secretary or his delegate, such payments shall be made by the Secretary or his delegate out of any moneys appropriated for the collection of internal revenue taxes, and may be made in advance.

(2) OTHER WITNESSES.—In the case of any other witnesses, such payments shall be made, subject to rules prescribed by the Tax Court, by the party at whose instance the witness appears or the deposition is taken.

No witness, other than one for the Commissioner, shall be required to testify in any case before the Court until he shall have been tendered the fees and mileage to which he is entitled in accordance with the above provision of law.

RULE 61. COMPUTATION OF TIME—SATURDAYS, SUNDAYS, AND HOLIDAYS

(*a*) *Computation of time—Exclusions.*—The day of the act, event, or default starting any period of time prescribed or allowed by these Rules or by an order of this Court shall not be counted as a part of the period, but Saturdays, Sundays, and legal holidays in the District of Columbia shall count just as any other days, except that when the period would expire on a Saturday, Sunday, or legal holiday in the District of Columbia, it shall extend to and include the next succeeding day that is not a Saturday, Sunday, or such legal holiday.

(*b*) *The legal holidays within the District of Columbia are:*

New Year's Day, January 1 (U.S.C., Title 5, sec. 87).

Inauguration Day, every fourth year (D.C. Code sec. 28–616 (1961)).

Washington's Birthday, February 22 (U.S.C., Title 5, sec. 87).

Memorial Day, May 30 (U.S.C., Title 5, sec. 87).

Fourth of July (U.S.C., Title 5, sec. 87).

Labor Day, first Monday in September (U.S.C., Title 5, sec. 87).

Veterans Day, November 11 (U.S.C., Title 5, sec. 87).

Thanksgiving Day, fourth Thursday of November (U.S.C., Title 5, sec. 87).

Christmas Day, December 25 (U.S.C., Title 5, sec. 87).

When legal holidays fall on Sunday the next day shall be a holiday (D.C. Code sec. 28–616 (1961)).

RULE 63. CASES BASED UPON DISALLOWANCE OF CLAIMS FOR REFUND OR RELIEF

All of the Rules of Practice, with appropriate changes in wording wherever necessary, shall apply to cases involving the disallowance of claims for refund or relief over which this Court has jurisdiction. Petitions in such cases shall have attached to them a copy of the notice of disallowance, together with whatever statements may accompany that notice, and shall also have attached to them a copy of the claim or application for refund or relief. In cases where no appeal lies from the decision of the Tax Court a copy of the claim or application need be attached only to the original and first copy of the petition.

RULE 64. RENEGOTIATION OF CONTRACTS CASES

(*a*) *Applicability of other rules to renegotiation cases.*—Except as otherwise prescribed by this Rule, cases for the redetermination of excessive profits under the Renegotiation Acts[2] shall be governed

[2] Section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, as amended by section 701, Revenue Act of 1943, and section 108 of the Renegotiation Act of 1951; also, the Renegotiation Act of 1948 (Supplemental National Defense Appropriation Act of 1948, section 3 (e)), Public Law No. 547 (80th Cong., 62 Stat 260), also, Public Law No. 764, 83d Cong., 68 Stat 1116

by the existing Rules of Practice before this Court. Where any of the existing Rules (except Rule 48) or the matter contained in the Appendix refer to the Commissioner, such Rules and the matter in the Appendix, when applied to a case for the redetermination of excessive profits under the Renegotiation Acts, shall refer to the War Contracts Price Adjustment Board (or to the United States when substituted therefor),[3] to the Secretary as defined and used in the Renegotiation Acts, or to the Renegotiation Board. Similarly references to the taxpayer shall refer to the contractor or subcontractor; references to tax shall refer to profits under a contract or subcontract subject to renegotiation, or to excessive profits thereunder, dependent upon context; and references to the determination of a deficiency, or a notice of such determination, shall refer to the order of the Board or the Secretary determining the amount of excessive profits.

(*b*) *Initiation of cases.*—A case for the redetermination of excessive profits under the Renegotiation Acts shall be initiated by the filing of a petition, as provided in Rules 4, 6, and the pertinent parts of Rule 7, in which the authority making the determination of excessive profits shall be shown as the respondent. (See form a, Appendix I.)

The petition shall be complete in itself so as fully to state the issues. It shall contain:

(*A*) A caption in the following form:

TAX COURT OF THE UNITED STATES

----------, Petitioner, *v.* ----------, Respondent.	Docket No.

PETITION

(*B*) Proper allegations showing jurisdiction in the Court.

(*C*) A statement of the amount of excessive profits determined by the Board or the Secretary, as the case may be, the period for which determined, and the amount thereof in controversy. If the determination of excessive profits was made on the basis of a specific contract or contracts, the petition shall identify the contract or contracts and shall state the period covered thereby.

(*D*) Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the Board or the Secretary in the determination of excessive profits. Each assignment of error shall be lettered.

(*E*) Clear and concise lettered statements of the facts upon which the petitioner relies as sustaining the assignments of error.

[3] Section 201(h) of the Renegotiation Act of 1951, as amended by section 3, Public Law No. 576, 82d Cong., 2d Sess., approved July 17, 1952, and by section 8, Public Law 764, 83d Cong., 2d Sess., approved September 1, 1954, 68 Stat 1116.

The allegations of fact shall contain a statement of the amount received or accrued during the period in question under the contracts or subcontracts subject to renegotiation; the cost paid or incurred with respect thereto and the profits derived therefrom, the type and character of business done, and any other facts pertinent to a determination of the error alleged.

(*F*) A prayer, setting forth relief sought by the petitioner.

(*G*) The signature of the petitioner or that of his counsel. (See Rule 4.)

(*H*) A verification by the petitioner in accordance with the applicable provision of Rule 7(*c*) (4) (*D*).

(*I*) A copy of the notice and a copy of the order determining the amount of excessive profits, which form the basis for the initiation of the case shall be appended to the petition. If a statement has been furnished to the petitioner by the renegotiating authority setting forth the facts upon which the determination of excessive profits was based and the reasons for such determination, a copy of such statement shall also be appended to the petition.

(*c*) *Claim by respondent for increased amount of excessive profits.*—Any claim for the redetermination of an amount of excessive profits greater than the amount shown in the notice of determination shall be made by the respondent in his answer filed under Rule 14, or in an amendment thereto filed under Rule 17 at or before the time of the trial.

(See statutory references, footnotes 2 and 3, *supra.*)

RULE 65. BOND TO STAY EXECUTION OF ORDER OF RENEGOTIATION BOARD

(*a*) *Statute.*—The Renegotiation Act of 1951 provides that execution of the order of the Renegotiation Board may be stayed by filing with the Tax Court a bond, approved as to form and in an amount fixed by the Court, within 10 days after the filing of the petition. See sections 105(a) and 108 of the Renegotiation Act of 1951. For forms of bonds see Appendix I, forms d, e, f, and g.

*(*b*) *Fixing amount of bond.*—The amount of bond to be filed to stay execution of an order of the Renegotiation Board pursuant to statute will be fixed by order of the Tax Court upon motion timely filed by the petitioner. The amount of bond requested will be considered prima facie evidence of the proper amount of the bond if the motion requests that it be fixed:

(1) At 112 percent of the full amount of the excessive profits determined in the unilateral order on which the petition is based, or

(2) At 112 percent of an amount equal to the full amount of the excessive profits determined in that order reduced by the credit author-

*Amended, June 1, 1964.

ized by section 3806 of the Internal Revenue Code of 1939, or section 1481, Code of 1954, and is accompanied by a statement from the district director of internal revenue for the district in which the return for the taxable year was filed, showing the amount of the credit to which the petitioner is entitled as a result of the determination, and

(3) The motion recites that petitioner agrees that approval of a bond in an amount fixed as provided in (1) or (2) shall not preclude the entry of an order increasing the amount of bond at any time thereafter upon a showing satisfactory to the Court of the necessity for increase.

The Court will consider other applications differing from the above, but the applicant must have in mind the short time allowed by the statute for the approval of the bond.

(*c*) *Sureties and collateral.*—

(1) The Tax Court will accept sureties on such bonds companies holding certificates of authority from the Secretary of the Treasury. (See latest U.S. Treasury Dept. Circ. 570.)

(2) If collateral is to be deposited as security for a bond, in lieu of a surety, United States Government marketable public securities fully negotiable by the bearer, owned by the petitioner, in a sum equal at their par value to the amount of the bond to be furnished, will be acceptable. A power of attorney and agreement must accompany such securities. (See Appendix I, forms f and g.) For other collateral which may be furnished and documents required therewith see the latest revision of U.S. Treasury Dept. Circ. No. 154 (rev.).

APPENDIX

I. FORMS

The forms listed below *by small letter* are not printed forms and are not obtainable from the Court. When preparing pleadings or documents involving such forms, be sure to follow **Rule 4** carefully as to form, size, type, *and copies* of papers required, unless the number of copies is otherwise specified in the pertinent rule.

The forms identified below *by number* are printed forms, which the Court will furnish upon request. Typed copies of these printed forms may be used instead of the printed forms, except for the subpoena form, which latter must be obtained from the Court.

The forms to be found herein are as follows:

a. Petition.
4. Subpoena.
5–A. Application for order to take depositions.
5–re. Certificate on return of depositions.
305. Entry of appearance.
b. Appeal bond, corporate surety.
c. Appeal bond, approved collateral.
d. Bond with corporate surety in renegotiation cases.
e. Bond with approved collateral in renegotiation cases.
f. Power of Attorney and Agreement by Corporation.
g. Power of Attorney and Agreement by Individuals.

a. PETITION

(See Rules 4, 5, 6, and 7)

TAX COURT OF THE UNITED STATES

----------, Petitioner, *v.* COMMISSIONER OF INTERNAL REVENUE, Respondent.	Docket No.

PETITION

The above-named petitioner hereby petitions for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of

deficiency (Service symbols) dated _____, 19__, and as the basis for his case alleges as follows:

1. The petitioner is (set forth whether individual, corporation, fiduciary, etc., as provided in Rule 6) with principal office (or residence) at _____ (Street) _____, _____. The return for the period here (City) (State) involved was filed with the collector (director or district director) for the _____ district of _____.

2. The notice of deficiency (a copy of which is attached and marked Exhibit A) was mailed to the petitioner on _____, 19____.

3. The deficiencies (or liabilities) as determined by the Commissioner are in income (profits, estate, or gift) taxes for the calendar (or fiscal) year 19___ in the amount of _____ dollars of which approximately _____ dollars is in dispute.

4. The determination of tax set forth in the said notice of deficiency is based upon the following errors: (Set forth specifically in lettered subparagraphs the assignments of error in a concise manner and avoid pleading facts which properly belong in the succeeding paragraph.)

5. The facts upon which the petitioner relies as the basis of this case are as follows: (Here set forth allegations of the facts relied upon—but not the evidence—in orderly and logical sequence, with subparagraphs lettered, so as fully to inform the Court of the issues to be presented and to enable the Commissioner to admit each or deny each specific allegation.)

Wherefore, the petitioner prays that this Court may try the case and (here state the relief desired).

(Signed) _____
(Petitioner or counsel)

(Post-office address)

STATE OF _____ }
COUNTY OF _____ } *ss:*

_____, being duly sworn, says that he is the petitioner (if a corporation, or fiduciary, state title of office or trust of person verifying and that he is duly authorized to verify the foregoing petition) above named; that he has read the foregoing petition, or had the same read to him, and is familiar with the statements contained therein, and that the statements contained therein are true, except those stated to be upon information and belief, and that those he believes to be true.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 19_____.

(Signed) _____
(Official title)

[SEAL]

4. SUBPOENA

(Available—Ask for form 1)

(See Rule 44)

TAX COURT OF THE UNITED STATES

_____, *Petitioner,* *v.* COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	DOCKET NO.

SUBPOENA

To _____

YOU ARE HEREBY COMMANDED to appear before the Tax Court of the United States _____
(or the name and official title of a person authorized to take depositions)

at _____ (Time) on the _____ (Date) day of _____ (Month) at _____

_____ (Place)

then and there to testify on behalf of _____ (Petitioner) or (Respondent) in the above-entitled case, and to bring with you _____

_____ (Use reverse if necessary)

and not to depart without leave of the Court.

HOWARD P. LOCKE,
Clerk of the Court

Date _____

By _____
Deputy Clerk.

Attorney for (Petitioner) (Respondent)

RETURN ON SERVICE

The above-named witness was summoned on the _____ day of _____, 19____ at _____ by delivering a copy of this subpoena to h____ and, if a witness for the petitioner, by tendering fees and mileage to h____ pursuant to Rule 60 of the Rules of Practice of the Tax Court.

Dated _____ Signed _____

Subscribed and sworn to before me this _____ day of _____, 19____

_____ [SEAL]
(Name and Title)

5-A. APPLICATION FOR ORDER TO TAKE DEPOSITIONS*

(Available—Ask for form 5-A)

(See Rules 45 and 46)

TAX COURT OF THE UNITED STATES

Petitioner, v. COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Docket No.

APPLICATION FOR ORDER TO TAKE DEPOSITIONS*

To the Tax Court of the United States:

1. Application is hereby made by the above-named _____ (Petitioner or respondent) for an order to take the deposition____ of the following-named person____:

Name of witness	*Post-office address*
(*a*) _____	_____
(*b*) _____	_____
(*c*) _____	_____
(*d*) _____	_____

2. It is desired to take the deposition of the persons above named and each of them for the following reasons:

(*a*) _____ will testify to the following material matters:

(Set forth briefly the matter upon which said witness will be called to testify)

(*b*) _____ will testify to the following material matters:

(*c*) _____ will testify to the following material matters:

(*d*) _____ will testify to the following material matters:

*Applications must be filed at least 30 days prior to the date set for trial. When the applicant seeks to take depositions upon written interrogatories the title of the application shall so indicate and the application shall be accompanied by an original and five copies of the proposed interrogatories. The taking of depositions upon written interrogatories is not favored, except when the depositions are to be taken in foreign countries, in which latter case any depositions taken *must* be upon written interrogatories, except as otherwise directed by the Court for cause shown. (See Rule 46.) If the parties so stipulate depositions may be taken without application to the Court. (See Rule 45(*c*).)

3. The reasons why _____ desires to take the testimony of the above-named persons rather than have them appear personally and testify before the Court are as follows (State specifically reasons for each witness.)

4. It is desired to take the testimony of _____
(Names of witnesses)

on the _____ day* of _____, 19____, at the hour of _____ o'clock __m.

*(A date sufficiently in advance of the day set for hearing of the proceedings to enable the deposition to be completed and filed with the Court at least 10 days prior to the hearing)

before _____ in the city of _____
(State name and title of official)

State of _____ at room _____
(Give number of room, street

number, and name of building)

5. That _____ is a
(Name of official before whom depositions are to be taken)

_____, who has authority to administer oaths but has no
(Give official title)

office connection or business employment with the petitioner or his counsel

Dated _____, 19____.

(Signed) _____
(Petitioner or counsel)

(Post-office address)

STATE OF _____ }
COUNTY OF _____ } *ss:*

_____, being duly sworn, says that the foregoing application for order to take depositions is made in good faith and for the reasons therein stated and that the same is not made for purposes of delay.
(Petitioner or counsel)

(Signed) _____

Subscribed and sworn to before me this ____ day of _____, 19____

(Signed) _____
(Official title)

[SEAL]

(Reverse of form 5)

To the Tax Court of the United States:

I, _____, the person named in the foregoing order to take depositions, hereby certify:

1. That I proceeded, on the _____ day of _____, A.D. 19____, at the office of _____, in the city of _____, State of _____, at _____ o'clock __m., under the said order and in the presence of _____ and _____ the counsel for the respective parties, to take the following depositions, viz:

_____, a witness produced on behalf of the _____;
(Petitioner or respondent)

_____, a witness produced on behalf of the _____;
(Petitioner or respondent)

_____, a witness produced on behalf of the _____;
(Petitioner or respondent)

2. That each witness was examined under oath at such times and places as conditions of adjournment required, and that the testimony of each witness (or his answers to the interrogatories filed) was taken stenographically and reduced to typewriting by me or under my direction.

3. That after the testimony of each witness was reduced to writing, the transcript of the testimony was read and signed by the witness in my presence, and that each witness acknowledged before me that his testimony was in all respects truly and correctly transcribed.

4. That, after the signing of the deposition in my presence, no alterations or changes were made therein.

5. That I have no office connection or business employment with the petitioner or his attorney except that of _____, objection to which was
(State connection)
waived by both parties to the proceeding.

[SEAL]

(Signature of person taking deposition)

(Official title)

NOTE.—This form, when properly executed, should be attached to and bound with the transcript preceding the first page thereof. It should then be enclosed in a sealed packet, with postage or other transportation charges prepaid, and directed and forwarded to the Tax Court of the United States, Washington 4, D.C.

305. ENTRY OF APPEARANCE

(Available—Ask for form 305)

(See Rule 24)

TAX COURT OF THE UNITED STATES
WASHINGTON

----------, *Petitioner*, *v.* COMMISSIONER OF INTERNAL REVENUE, *Respondent*.	Docket No.

ENTRY OF APPEARANCE

The undersigned, being duly admitted to practice before the Tax Court of the United States, hereby enters his appearance for the petitioner in the above-entitled case.

(Signed)

(Type signature)

(Office address)

(City)

A separate entry of appearance must be filed in duplicate for each docket number.

b. APPEAL BOND, CORPORATE SURETY

The following is a satisfactory form of bond for use in case bond with a corporate surety approved by the Treasury Department is to be furnished to stay the assessment and collection of tax involved in an appeal from a decision of the Tax Court. Only the original bond is required. There are no printed forms. Each petitioner must execute the bond, and the corporate seal or a designation of seal in the case of individuals must be affixed.

TAX COURT OF THE UNITED STATES

Washington, D.C.

----------, *Petitioner*, *v.* COMMISSIONER OF INTERNAL REVENUE, *Respondent*.	Docket No.

BOND

KNOW ALL MEN BY THESE PRESENTS that we ---------- as principal, and----------, as surety, are held and firmly bound unto the above-named COMMISSIONER OF INTERNAL REVENUE and/or the UNITED STATES OF AMERICA, in the sum of $----------, (double the deficiency or such sum as the Tax Court has fixed upon petitioner's prior motion), to be paid to the said Commissioner of Internal Revenue and/or the United States of America for the payment of which well and truly to be made we bind ourselves and each of us and our successors and assigns jointly and severally firmly by these presents.

Signed, sealed, and dated this ---------- day of ----------, 19----.

WHEREAS, the above named----------is filing or is about to file with the Tax Court of the United States, a petition for review of the said Court's decision in respect of the tax liability of the above petitioner for the taxable year or years----------, by the United States Court of Appeals for the----------Circuit to reverse the decision rendered in the above-entitled cause.

NOW, THEREFORE, the condition of this Obligation is such that if the above-named----------shall file its petition for review and shall prosecute said petition for review to effect and shall pay the deficiency as finally determined, together with any interest, additional amounts or additions to the tax provided for by law, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

---------- [SEAL]
(for an individual petitioner)

---------- (for a corporate petitioner)

By ----------
Title

(Corporate Seal)
Attest:

---------- Surety

---------- By ----------
Secretary Title (Surety corporate seal)

c. APPEAL BOND, APPROVED COLLATERAL

A satisfactory form of bond for use in case an appellant desires to furnish approved collateral (Treasury Department Circular No. 154, Revised), instead of furnishing a corporate surety bond, and also forms of powers of attorney covering the pledged collateral are shown below. Only the original is required in either case. There are no printed forms. Each petitioner must execute the bond, and the corporate seal or a designation of seal in the case of individuals must be affixed.

TAX COURT OF THE UNITED STATES

Washington, D.C.

_____, *Petitioner,* *v.* COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Docket No.

BOND

KNOW ALL MEN BY THESE PRESENTS that _____ is held and firmly bound unto the above-named Commissioner of Internal Revenue and/or the United States of America in the sum of _____ ($_____) Dollars, to be paid to the said COMMISSIONER OF INTERNAL REVENUE and/or the UNITED STATES OF AMERICA, for the payment of which, well and truly to be made, the _____ binds itself and its successors, firmly by these presents

Signed, sealed, and dated this _____ day of _____, 19____.

WHEREAS, the above-named _____ is filing or is about to file with the Tax Court of the United States, a petition for review of the said Court's decision in respect of the tax liability of the above petitioner for the taxable year or years _____ by the United States Court of Appeals for the _____ Circuit to reverse the decision rendered in the above-entitled cause.

NOW, THEREFORE, the condition of this obligation is such that if the above-named _____ shall file its petition for review and shall prosecute said petition for review to effect and shall pay the deficiency as finally determined, together with any interest, additional amounts or additions to the tax provided for by law, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

The above-bounden obligor, in order the more fully to secure the Commissioner of Internal Revenue and/or the United States in the payment of the aforementioned sum, hereby pledges as security therefor bonds/notes of the United States in a sum equal at their par value to the aforementioned sum, to wit: _____ _____ dollars ($_____), which said bonds/notes are numbered serially and are in the denominations and amounts, and are otherwise more particularly described as follows:_____

which said bonds/notes have this day been deposited with the Clerk of the Tax Court of the United States and his receipt taken therefor.

Contemporaneously herewith the undersigned has also executed and delivered an irrevocable power of attorney and agreement in favor of the Clerk of the

Tax Court of the United States, authorizing and empowering him, as such attorney to collect or sell or transfer or assign, the above-described bonds/notes so deposited, or any part thereof, in case of any default in the performance of any of the above-named conditions or stipulations.

_____ [SEAL]
(for an individual petitioner)

(Corporate Seal)
Attest:

(for a corporate petitioner)

_____ By _____
Secretary Title

d. BOND WITH CORPORATE SURETY IN RENEGOTIATION CASES

The following is a satisfactory form of bond for use in case bond with a corporate surety approved by the Treasury Department is to be furnished to stay the execution of an order of the Renegotiation Board (created by the Act of March 23, 1951) involved in a petition to the Tax Court. Only the original bond is required. There are no printed forms. Each petitioner must execute the bond, and the corporate seal or a designation of seal in the case of individuals must be affixed.

TAX COURT OF THE UNITED STATES

Washington, D.C.

_____,
Petitioner,
v.
_____,
Respondent.
} Docket No.

BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____ as principal, and _____, as surety, are held and firmly bound unto the Renegotiation Board and/or the United States of America, in the sum of $_____ (See Rule 65(*b*) as to amount), to be paid to the Renegotiation Board and/or the United States of America, for the payment of which well and truly to be made we bind ourselves and each of us and our successors and assigns, jointly and severally, firmly by these presents.

SIGNED, sealed, and dated this _____ day of _____, 19__.

WHEREAS, the Renegotiation Board by its order dated _____ determined that the above-named principal derived excessive profits from contracts and subcontracts subject to renegotiation, during the fiscal year ended _____, in the amount of $ _____; and

WHEREAS, said principal has filed or is about to file a petition in the Tax Court of the United States for a redetermination of the amount of the aforesaid excessive profits,

NOW, THEREFORE, the condition of this obligation is such that if the above-named principal shall well and truly pay the amount of profits adjudged by the Tax Court of the United States to be excessive, less any tax credit applicable thereto under section 3806 of the Internal Revenue Code of 1939, or section 1481, Code of 1954, with interest thereon as required by law, or if said principal, in the event that said proposed proceeding in the Tax Court of the United States is not timely filed, or after filing is dismissed or otherwise concluded without an adjudication by said Court as to the amount of excessive profits, shall well and truly pay the amount of profits determined by the Renegotiation Board to be

excessive by its said order dated _____, less any tax credit applicable thereto under section 3806 of the Internal Revenue Code of 1939, or section 1481, Code of 1954, with interest thereon as required by law, then this obligation shall be void; otherwise it shall be and remain in full force and effect.

_____ [SEAL]
(for an individual petitioner)

(Corporate Seal)
Attest:

(for a corporate petitioner)

_____ By _____
Secretary Title

Surety

By _____
Title (Surety corporate seal)

o. BOND WITH APPROVED COLLATERAL IN RENEGOTIATION CASES

A satisfactory form of bond for use in case the petitioner in a renegotiation case filed under the Act of March 23, 1951, desires to furnish approved collateral under Rule 65 (*c*) (2), instead of furnishing a corporate surety bond, follows. Forms of power of attorney covering the pledged collateral for use with bonds secured by collateral, both in appeals from this Court in tax cases and in petitions to this Court in such renegotiation cases, are also shown below. Only the original instrument is required in each instance. There are no printed forms. Each petitioner must execute the bond, and the corporate seal or a designation of seal in the case of individuals must be affixed.

TAX COURT OF THE UNITED STATES
Washington, D.C.

_____,
Petitioner,
v.
_____, } Docket No
Respondent.

BOND

KNOW ALL MEN BY THESE PRESENTS: That _____ is (are) held and firmly bound unto the Renegotiation Board and/or the United States of America in the sum of _____ ($_____) Dollars (see Rule 65 (*b*) as to amount), to be paid to the Renegotiation Board and/or the United States of America, for the payment of which, well and truly to be made, the said _____ bind(s) himself (herself, itself, or themselves) and his (her, its, or their) successors and assigns, firmly by these presents.

SIGNED, sealed and dated this _____ day of _____, 19__.

WHEREAS, the Renegotiation Board by its order dated _____ determined that the above-named _____ derived excessive profits from contracts and subcontracts subject to renegotiation, during the fiscal year ended _____ in the amount of $_____; and

WHEREAS, the above-named _____ has (have) filed or is (are) about to file a petition in the Tax Court of the United States for redetermination of the amount of the aforesaid excessive profits,

Now, THEREFORE, the condition of this obligation is such that if the above-named _____ shall well and truly pay the amount of profits adjudged by the Tax Court of the United States to be excessive, less any tax credit applicable thereunto under section 3806 of the Internal Revenue Code

of 1939, or section 1481, Code of 1954, with interest thereon as required by law, or if the above-named _____, in the event that said proposed case in the Tax Court of the United States is not timely filed or after filing is dismissed or otherwise concluded without an adjudication by said Court as to the amount of excessive profits, shall well and truly pay the amount of profits determined by the Renegotiation Board to be excessive by its said order dated _____, less any tax credit applicable thereto under section 3806 of the Internal Revenue Code of 1939, or section 1481, Code of 1954, with interest thereon as required by law, then this obligation shall be void; otherwise it shall be and remain in full force and effect.

The above-bounden obligor(s) in order the more fully to secure the Renegotiation Board and/or the United States in the payment of the aforementioned sum, hereby pledge(s) as security therefor bonds/notes of the United States in a sum equal at their par value to the aforementioned sum, to wit: _____ _____($_____) Dollars, which said bonds/notes are numbered serially and are in the denominations and amounts, and are otherwise more particularly described as follows: _____ _____ _____

which said bonds/notes are being herewith deposited with the Clerk of the Tax Court of the United States and his receipt taken therefor.

Contemporaneously herewith the undersigned has also executed and delivered an irrevocable power of attorney and agreement in favor of the Clerk of the Tax Court of the United States, authorizing and empowering him, as such attorney to collect or sell or transfer or assign the above-described bonds/notes so deposited, or any part thereof, in case of any default in the performance of any

_____ [SEAL]
(for an individual petitioner)

(Corporate Seal)
Attest:

(for a corporate petitioner)

_____ By _____
Secretary Title

f. POWER OF ATTORNEY AND AGREEMENT BY CORPORATION

KNOW ALL MEN BY THESE PRESENTS: That _____, a corporation duly incorporated under the laws of the State of _____ and having its principal office in the city of _____, State of _____, in pursuance of a resolution of the Board of Directors of said corporation, passed on the _____ day of _____, 19____, a duly certified copy of which resolution is hereto attached, does hereby constitute and appoint the Clerk of the Tax Court of the United States as attorney for said corporation, for and in the name of said corporation to collect or to sell, assign, and transfer certain United States Liberty bonds or other bonds or notes of the United States, the property of said corporation, described as follows:

Title of bonds/notes	*Total face amount*	*Denomination*	*Serial No*	*Interest dates*
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

such bonds/notes having been deposited by it, pursuant to the Act of July 30, 1947, c. 390, 61 Stat. 646, as security for the faithful performance of any and all of the conditions or stipulations of a certain obligation entered into by it with (here enter "the Commissioner of Internal Revenue and/or the United States" or enter "the Renegotiation Board and/or the United States") under date of _____, which is hereby made a part thereof, and the undersigned agrees that, in case of any default in the performance of any of the conditions and stipulations of such undertaking, its said attorney shall have full power to collect said bonds/notes or any part thereof, or to sell, assign, and transfer said bonds/notes or any part thereof without notice, at public or private sale, or to transfer or assign to another for the purpose of effecting either public or private sale, free from any equity of redemption and without appraisement or valuation, notice and right to redeem being waived, and the proceeds of such sale or collection, in whole or in part to be applied to the satisfaction of any damages, demands, or deficiency arising by reason of such default, as may be deemed best, and the undersigned further agrees that the authority herein granted is irrevocable.

And said corporation hereby for itself, its successors and assigns, ratifies and confirms whatever its said attorney shall do by virtue of these presents.

In witness whereof, the _____, the corporation hereinabove named, by _____ (Name and title of officer), duly authorized to act in the premises, has executed this instrument and caused the seal of the corporation to be hereto affixed this _____ day of _____, 19____.

Attest:

_____ _____

(Corporate seal) Secretary By _____
Title

STATE OF _____ }
COUNTY OF _____ } *ss:*

Before me, the undersigned, a notary public within and for the said county and State, personally appeared _____ (Name and title of officer), and for and in behalf of said _____, corporation, acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this _____ day of _____, 19____.

[Notarial seal]

Notary Public

My Commission expires _____

8. POWER OF ATTORNEY AND AGREEMENT BY INDIVIDUALS

KNOW ALL MEN BY THESE PRESENTS: That I (we), _____, do hereby constitute and appoint the Clerk of the Tax Court of the United States as attorney for me (us), and in my (our) name to collect or to sell, assign, and transfer certain United States Liberty bonds, or other bonds or notes of the United States, being my (our) property described as follows:

Title of bonds/notes	*Total face amount*	*Denomination*	*Serial No.*	*Interest dates*
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

such bonds/notes having been deposited by me (us) pursuant to the Act of July 30, 1947, c. 390, 61 Stat. 646, as security for the faithful performance of any and all of the conditions or stipulations of a certain obligation entered into by me (us) with (here enter "the Commissioner of Internal Revenue and/or the United States" or enter "the Renegotiation Board and/or the United States") under date of _____, which is hereby made a part thereof, and I (we), agree that, in case of any default in the performance of any of the conditions and stipulations of such undertaking, my (our) said attorney shall have full power to collect said bonds/notes or any part thereof, or to sell, assign, and transfer said bonds/notes or any part thereof without notice, at public or private sale, or to transfer or assign to another for the purpose of effecting either public or private sale, free from any equity of redemption and without appraisement or valuation, notice and right to redeem being waived, and the proceeds of such sale or collection, in whole or in part to be applied to the satisfaction of any damages, demands, or deficiency arising by reason of such default, as may be deemed best, and I (we) further agree that the authority herein granted is irrevocable.

And for myself (ourselves), my (our several) administrators, executors, and assigns, I (we) hereby ratify and confirm whatever my (our) said attorney shall do by virtue of these presents.

In witness whereof, I (we) hereinabove named, have executed this instrument and affixed my (our) seal this _____ day of _____, 19____.

_____ [SEAL]

STATE OF _____ }
COUNTY OF _____ } *ss:*

Before me, the undersigned, a notary public within and for the said county and State, personally appeared _____ (Name of obligor), and acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this _____ day of _____, 19____.

[Notarial seal]

Notary Public

My Commission expires _____

II. REQUESTS FOR PLACE OF TRIAL

The Court will fix the time and place for trial to afford reasonable opportunity to a taxpayer to try his case with as little inconvenience and expense as is practicable. A trial may be requested at any place at which suitable courtroom facilities are available and a sufficient number of cases are ready for trial. A partial list of cities in which sessions of the Court are held appears below. This list is published to assist parties in making requests under Rule 26. The grouping of cities indicates that it may be necessary to conduct a trial at another city if there are not sufficient cases for trials at the requested city. Moreover, if sufficient cases are not ready for trial in a city requested by a taxpayer, or if suitable courtroom facilities are not available in that city, the Court may find it necessary to calendar cases for trial in some other city within reasonable proximity of the designated place.

LIST

ALABAMA.
Birmingham.
Mobile.

ARIZONA: Phoenix.

ARKANSAS: Little Rock, or Memphis, Tenn.

CALIFORNIA:
Los Angeles.
San Francisco.

COLORADO: Denver.

DISTRICT OF COLUMBIA: Washington.

FLORIDA:
Jacksonville.
Miami.
Tampa.

GEORGIA: Atlanta.

HAWAII: Honolulu, or Los Angeles or San Francisco, Calif.

ILLINOIS: Chicago.

INDIANA: Indianapolis.

IOWA: Des Moines.

KENTUCKY: Louisville.

LOUISIANA: New Orleans.

MASSACHUSETTS: Boston.

MICHIGAN: Detroit.

MINNESOTA: St. Paul.

MISSISSIPPI: Jackson.

MISSOURI:
Kansas City.
St. Louis.

MONTANA: Helena.

NEBRASKA: Omaha.

NEW JERSEY: Newark.
(New York City courtroom usually used.)

NEW YORK:
Buffalo.
New York City.

NORTH CAROLINA: Greensboro.

OHIO:
Cleveland.
Cincinnati.
Columbus.

OKLAHOMA: Oklahoma City or Tulsa.

OREGON: Portland.

PENNSYLVANIA:
Philadelphia.
Pittsburgh.

SOUTH CAROLINA: Columbia.

TENNESSEE:
Knoxville.
Memphis.
Nashville.

TEXAS:
Dallas.
Houston, or Galveston, or San Antonio.

UTAH: Salt Lake City.

WASHINGTON:
Seattle.
Spokane.

WEST VIRGINA:
Charleston.
Huntington.

WISCONSIN:
Milwaukee, or Chicago, Ill.

TAX COURT OF THE UNITED STATES

Amendment to Rules of Practice (revised April 1, 1958, with Amendments and Additions through September 1, 1965) adopted by the Court effective July 1, 1968.

RULE 52. PREPARATION OF RECORD ON APPEAL--COSTS

(a) Immediately after the contents of a record on appeal have been settled or agreed to, the Clerk will notify the petitioner of the costs and charges for the preparation, comparison, and certification of said record; such charges to be determined in accordance with the provisions of section 7474, Code of 1954, and the Act of September 27, 1944, 58 Stat. 743.

(b) No transcript will be certified and transmitted to the appellate court until the costs and charges therefor have been paid. (For name of payee, see Rule 1(e).)

(c) An appellant who requests the Clerk to certify but not to prepare documents for transmission to a United States Court of Appeals shall furnish the Clerk with the copies of the documents to be certified, if duplicates are not already in the record. (See Rules 4(g) and 31(b).)

(The Federal Rules of Appellate Procedure should be consulted. For statutory provisions relating to appellate court review of Tax Court decisions, see section 7482 et seq., Code of 1954. For forms of bonds, see Appendix I, forms b and c.)

APPENDIX I, Rules of Practice

Changes in the appeal bonds, forms b and c, at pages 40 and 41.

In the "WHEREAS" clauses, change the words "a petition for review of" to "an appeal from".

In the "NOW, THEREFORE" clauses, change the words "petition for review", appearing twice in these clauses, to "appeal".